

Gary L. Cooper (ISB No. 1814)
Ron Kerl (ISB No. 1768)
COOPER & LARSEN, CHTD.
151 North 3rd Avenue, Suite 210
P.O. Box 4229
Pocatello, Idaho 83205-4229
Telephone (208) 235-1145
Facsimile (208) 235-1182

Counsel for Pocatello Dental Group, P.C.

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UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

POCATELLO DENTAL GROUP, P.C.,)
an Idaho professional corporation,)
Plaintiff,)

vs.)

INTERDENT SERVICE CORPORATION,)
a Washington corporation,)
Defendant.)

Case No. CIV 03-450-E-BLW

INTERDENT SERVICE CORPORATION,)
a Washington corporation,)
Counterclaimant,)

vs.)

POCATELLO DENTAL GROUP, P.C., an)
Idaho professional corporation; DWIGHT G.)
ROMRIELL, individually; LARRY R.)
MISNER, JR., individually; PORTER)
SUTTON, individually; ERNEST SUTTON,)
individually; GREGORY ROMRIELL,)
individually; ERROL ORMOND, individually;)
and ARNOLD GOODLIFFE, individually;)

Counterdefendants.)

SUPPLEMENTAL
AFFIDAVIT OF GREG
ROMRIELL IN SUPPORT OF
TEMPORARY RESTRAINING
ORDER

STATE OF IDAHO)

County of Bannock)

I, Greg Romriell, being first duly sworn upon my oath, depose and say:

1. I am the president of Pocatello Dental Group ("Group"). I am also an Idaho licensed dentist working under contract with the Group in Pocatello, Idaho. As such, the information stated below is true and is based upon my personal knowledge.

2. This affidavit is intended to supplement my Affidavit filed in support of the Group's Motion for Temporary Restraining Order against InterDent Service Corporation ("TSC"). Docket No. 180.

3. Since October 1, 2004, I have not directed any patient of the Group to withhold payment of any fees or charges for dental care provided by the Group or its dentists and hygienists on or before October 1, 2004.

4. When ISC closed the Group's office on October 1, 2004, it had the direct telephone numbers maintained for the Group's dentists disconnected. Callers were automatically diverted to the Group's main telephone number (208-238-2200) at which time they were simply told by a voice recording that "the Pocatello Dental Office is permanently closed and no longer seeing patients." ISC had no right or authority, following its termination of the Management Agreement, to "speak" for the Pocatello Dental Group and advise anyone that the Group is "permanently closed and no longer seeing patients." The message did not provide any caller with information on how they could contact their dentist, or how they could contact ISC about their billings.

5. When ISC closed the Group's office on October 1, 2004, it removed personal

property belonging to me and other dentists under contract with the Group. The removed and missing personal property is identified as follows:

Dr. Errol Ormond:

- 1) Numerous small dental hand instruments that he had acquired personally. Most of them were Composite Carving Instruments - approximately \$150.00;
- 2) Matrix system with matrix and holding Rings - \$275.00;
- 3) Endo handpiece that would accept plastic headed hand endo instruments - \$580.00; and
- 4) Endo probes (2) for locating pulpal canals - \$40.00

Dr. Greg Romirell:

- 1) Head lamp and control - \$1,500.00
- 2) Quick cure light - flash - \$600.00
- 3) Surgical hand piece - \$900.00
- 4) Zest anchors (starter set - locator tool) - \$150.00
- 5) Blanket - \$20.00
- 6) Caulk auto matrix system - \$250.00
- 7) Compo bands - \$100.00
- 8) Compositite tight bands and rings - \$150.00
- 9) Integra posts (approximately 60 - detail 3, 3.5, 4, 4.5, 5, 6) - \$250.00
- 10) Alginate II - \$150.00
- 11) Isolator system - \$200.00
- 12) Cervical forms kit - \$189.00

13) Implant demo (sulzer medica model) - \$350.00

14) Sealant models \$100.00

Notwithstanding my request to Bruce Call that the dentists be allowed access to retrieve their property before all of it was removed from the Group's offices on and during the weekend of October 1, 2004, I was denied that request and this property has not been returned to its owners.


6. On Sunday, October 3, 2004 at approximately 2:00 p.m. I asked Bruce Call for access to these patient records. I also asked Mr. Call to tell me where the records were located. I was told by Mr. Call that the patient records were safe, had been removed to a "secure" location, and that I would be told of their location. I was told by Barbara Henderson, the Group's former office manager, that I should meet her at 8:00 the following morning and she would turn over the patient records. That Monday morning Barbara Henderson, me and another ISC agent drove to a storage unit in Chubbuck, Idaho where I was to accept possession of the patient charts and the Group was to assume the storage rental agreement previously entered into by ISC. The storage company's office was posted with a sign that stated that it would be closed until 10:00 a.m. We returned when the storage company's office opened and I, on behalf of the Group, took possession of the patient records and assumed responsibility for the storage charges.

7. As stated in my initial Affidavit in support of the Motion for Temporary Restraining Order, on Monday morning, October 4, 2004, I asked Bruce Call for a list of current patients and patients scheduled for care so that the Group's dentists could contact these patients. I was tersely told by Mr. Call that I could not have these record and that he was going to call the Group's patients.

He did not ask me for any instructions on what to "tell" these patients and he did not tell me what he was going to tell them.

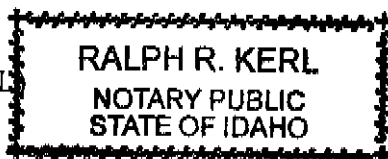
8. Attached to this affidavit, as Exhibits "A" and "B" are true and accurate copies of letters sent by the Group's counsel to ISC's counsel requesting the patient lists requested by me, and ISC's counsel's October 4, 2004 reply in which he refused to intercede with ISC and have those records delivered to the Group.


Dated this 15th day of October, 2004.


Greg Romriell, President of Pocatello
Dental Group

SUBSCRIBED AND SWORN to before me this 15 day of October, 2004.

(SEAL)




NOTARY PUBLIC for Idaho
Residing at: Pocatello
Commission Expires: 9/16/10

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 15 day of October, 2004, I served a true and correct copy of the foregoing document as follows:

Erik F. Stidham
G. Rey Reinhardt
STOEL RIVES LLP
101 S. Capitol Blvd., Ste.1900
Boise, ID 83702-5958

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Overnight Mail
☒ Facsimile

Scott J. Kaplan
STOEL RIVES LLP
900 SW Fifth Ave. Ste. 2600
Portland, OR 97204-1268

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Overnight Mail
☒ Facsimile

Lowell N. Hawkes
1322 East Center
Pocatello, ID 83201

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Overnight Mail
☒ Facsimile

Richard A. Hearn
RACINE, OLSON, NYE, BUDGE
& BAILEY, CHTD.
P.O. Box 1391
Pocatello, ID 83204

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Overnight Mail
☒ Facsimile

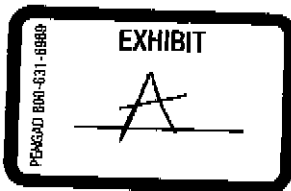
By: 
Ron Kerl

COOPER & LARSEN

151 NORTH 3rd AVE., 2nd FLOOR
P.O. BOX 4229
POCATELLO, ID 83205-4229

GARY L. COOPER
REED W. LARSEN
RON KERL
M. ANTHONY SASSER
E. W. "SKIP" CARTER
JAMES D. RUCHTI

TELEPHONE (208) 235-1145
FAX (208) 235-1182



Attorneys at Law

October 4, 2004

VIA FACSIMILE: (503)220-2480

Scott J. Kaplan
Stoel Rives
900 SW 5th Ave. Ste. 2600
Portland, OR 97204-1268

Re: Pocatello Dental Group vs. InterDent Service Corporation

Dear Scott:

Notwithstanding your representations to the contrary, Ivar Chhina's October 1, 2004 Notice of Termination was not delivered by hand to Greg Romriell until 6:30 p.m. last evening. I did not see the notice (which was faxed to me after business hours last Friday) until my return to my office this morning. Your grasp to a 48 hour timeline is disingenuous.

Although it is clear that ISC has known for days, if not weeks, that it was going to close the Pocatello Dental Group office on October 1, 2004, its employees nonetheless continued to schedule patients for treatment by Pocatello Dental Group's dentists and hygienists on dates subsequent to October 1, 2004. ISC's scheduling of patients for care on dates after it intended to close the office is consistent with ISC's past disregard for patient care.

Pocatello Dental Group dentists and hygienists owe an ethical duty to their patients to assure continuity of patient care. ISC's unilateral action to close the office last Friday has interfered with these duties because patients scheduled to receive dental care after October 1, 2004 have been effectively abandoned by ISC. My letter to you of September 21, 2004 asked ISC not to unilaterally close the office. This request was ignored by you and ISC. Had ISC provided PDG with advance notice of the closure, an orderly transition could have occurred which transition would not have made the Group's patients suffer as a result of this contract dispute between our clients. Rather, these patients could have been referred to other dentists in the area to assure the continuity of their dental care.

Article 2, Paragraph 2.1 of the Management Agreement states that *"Nothing in this Agreement shall be construed to alter or in any way affect the legal, ethical and professional relationship between and among Provider [PDG's dentists and hygienists] and Provider's patients, nor shall anything contained in this Agreement abrogate any right or obligation arising out of or applicable to the dentist-patient relationship."* This prohibition would apply to ISC's contract rights under any purported claim of default against Pocatello Dental Group.

October 4, 2004

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Greg Romriell has asked Bruce Call (this morning) for a list of current patients and patients scheduled for dental care after October 1, 2004. Call has refused to provide Pocatello Dental Group with that information, simply stating that "he's going to call them." Call's promise, however, does not ring true to me and my client, and does not satisfy the obligations my client's dentists and hygienists owe to these patients. The Management Agreement does not allow Call to substitute his actions for the duties my client's dentists and hygienists owe to these patients.

Demand is herewith made for ISC to immediately provide Pocatello Dental Group with the names, addresses and telephone numbers of all current patients of Pocatello Dental Group and the names, addresses and telephone numbers of all patients who had been scheduled for treatment after October 1, 2004. This information should be readily available from ISC's computer records.

While ISC has taken steps to turnover patient files to PDG, those files number in the thousands. They are not organized in any meaningful way. They do not allow PDG to promptly and effectively ascertain (1) the names, addresses and telephone numbers of current, as opposed to past/non-current patients and (2) the names, addresses and telephone numbers of current patients scheduled to receive dental care from the Pocatello Dental Group after October 1, 2004.

Please respond by noon today, MDT.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Kerl", is written over the word "Sincerely,".

RON KERL

RK: eb

cc: Greg Romriell
Richard A. Hearn
Lowell N. Hawkes



900 S.W. Fifth Avenue, Suite 2600
Portland, Oregon 97204
phone 503.221.3380
fax 503.220.2480
tdd 503.221.0445
www.stoel.com

October 4, 2004

SCOTT J. KAPLAN
Direct (503) 294-9186
sjkaplan@stoel.com

VIA FACSIMILE

Mr. Ron Kerl
Cooper & Larsen
151 North Third Avenue - Second Floor
Pocatello, ID 83205-4229

**Re: Pocatello Dental Group, P.C. v. InterDent Service Corporation, etc., U.S. District
Court (Idaho) Case No. CV-03-450-E-LMB**

Dear Ron:

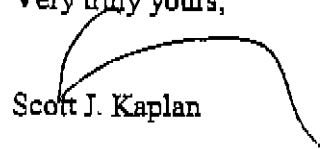
This is in response to your letter of today.

First, we faxed you the termination notice on Friday because our attempted service on PDG's president Dr. G. Romriell by process server had been unsuccessful. We were informed that he was a well-known "runner" and this turned out to be the case in that he evaded service on October 1. I do not know if he was successful in evading service the entire weekend. We were subsequently advised that, given his proclivities, the most reliable method of serving Dr. Romriell is to use law enforcement authorities. We will do so in the future if it becomes necessary. Nonetheless, service on PDG was effective when you received it.

With regard to "ethical duties" and the like, there is no point in debating between counsel whether PDG employees have violated these duties. We will not convince each other.

We regard to computerized scheduling, as your clients are aware, the office computer system has been dismantled. In any event, this is a business issue that must be worked out between our clients. Interference by counsel will not be productive and I am not about to contradict Mr. Call's decision. The only current issues for discussion between counsel relating to the termination that I can see are the necessary modifications to the court orders on the mail and on Dr. Misner's noncompete agreement.

Very truly yours,


Scott J. Kaplan

SJK:jaw
cc: All Counsel (via-fax)
Mr. Kevin Webb (via e-mail)

Portland3-1495097 1 0021164-00081

Oregon
Washington
California
Utah
Idaho

